

Appl. No. 10/623,882
Docket No. AA-600
Amdt. dated March 21, 2007
Reply to Office Action mailed on November 22, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1-8 and 10 are pending in the present application. No claims are amended herein. The enclosed claim listing is provided for the Examiner's convenience. No additional claims fee is believed to be due.

Rejection Under 35 U.S.C. § 103(a)

In the Office action, claims 1-4, 6, and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,230,374 issued to Widlund (hereinafter "Widlund") in view of U.S. Patent No. 5,759,317 issued to Justmann (hereinafter "Justmann '317"), in view of French Patent No. 2,810,537 issued to Brutin (hereinafter "Brutin"), and in view of U.S. Patent No. 5,876,531 issued to Jacobs et al. (hereinafter "Jacobs"). In order to establish a prima facie case of obviousness, three basic requirements must be met. (*See* MPEP § 2143). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* It is respectfully submitted that the Office action does not establish a prima facie case of obviousness, because the combination of Widlund, Justmann '317, Brutin, and Jacobs does not teach or suggest all the claim limitations recited in independent claim 1.

Claim 1 recites a method step of "preparing a continuous fastening composite web comprising two longitudinally extending first substrates laterally spacedly positioned" and "a longitudinally extending second substrate positioned between the two first substrates." (emphasis added). In the Office action, it is asserted that Widlund shows "a continuous fastening composite web comprising two longitudinally extending first substrates, 8, and a longitudinally extending second substrate 11, therebetween (Figs. 2, 3, 4)." (emphasis added). However, reference numbers 8 and 11 of Widlund do not correspond with two first substrates and a second substrate, respectively. Instead, Widlund associates reference number 8 with a generally rectilinear base part of a fastener device element 4. (*See* Col. 2, ll. 64-67; and Fig. 1). In addition, Widlund associates reference number 11 with a web-like material from which the fastener element is

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manufactured. (See Col. 3, ll. 16-20; and Fig. 2-4). As such, Widlund does not teach or suggest two first substrates and a second substrate positioned between the first two substrates, as recited in claim 1.

Claim 1 also recites, a step of "cutting the continuous fastening composite web along a continuous cut line comprising a plurality of repeating patterns, each of the repeating patterns having a first side and a second side, the first and second sides extending from one panel region through the two first fastening materials to extend into the other panel region and extending to return from the other panel region through the two first fastening materials to extend into the one panel region. (emphasis added). In addition, the panel regions recited in claim 1 are defined in part by longitudinal outer side edges of the first substrates. As discussed above, Widlund does not teach or suggest two first substrates, and therefore, does not teach or suggest the panel regions recited in claim 1. Thus, Widlund does not teach or suggest the step of "cutting the continuous fastening composite web" in accordance with claim 1.

The Office action asserts that Widlund fails to show the two longitudinally first substrates to be laterally spacedly positioned, and that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to space the two first substrates of Widlund as shown by Justmann because less material is used, thereby lowering cost. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. (See MPEP § 2143.01(III)). Not only does Widlund fail to teach or suggest two first substrates, but it is also respectfully submitted that Widlund provides no suggestion of the desirability of modifying any of the materials disclosed therein by providing two first substrates and a second substrate connected together as recited in claim 1. In addition, it is submitted that Widlund does not teach or suggest that modifications thereto (such as including two first substrates, a second substrate, first fastening materials, and a second fastening material as recited in claim 1) would lower costs, as suggested in the Office action.

Therefore, it is respectfully submitted that, for at least the reasons provided above, a prima facie case of obviousness has not been established. As such, claim 1 is patentable under 35 U.S.C. § 103(a) over Widlund in view of Justmann '317, Brutin, and Jacobs. Claims 2-4, 6, and 7 depend from and include all the limitations of claim 1. Thus, claims 2-4, 6, and 7 are patentable under 35 U.S.C. § 103(a) over Widlund in view of Justmann

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'317, Brutin, and Jacobs for at least the same reasons discussed above with regard to claim 1.

In the Office action, claims 5, 8, and 10 are also rejected under 35 U.S.C. § 103(a). In particular, claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Widlund in view of Justmann '317, Brutin, and Jacobs, and in further view of U.S. Patent No. 5,399,219 issued to Roessler et al. (hereinafter Roessler). Claim 8 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over Widlund in view of Justmann '317, Brutin, and Jacobs, and in further view of U.S. Patent No. 5,624,429 issued to Long et al. (hereinafter Long). In addition, claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Widlund in view of Justmann '317, Brutin, and Jacobs, and in further view of U.S. Patent No. 6,195,850 issued to Melbye et al. (hereinafter Melbye).

Applicants submit that neither Justmann '317, Roessler, Long, nor Melbye correct for the deficiencies of Widlund discussed above. As such, claim 1 is patentable under 35 U.S.C. § 103(a) over Widlund in view of Justmann '317, Brutin, Jacobs, Roessler, Long, and/or Melbye. Claims 5, 8, and 10 depend from and include all the limitations of claim 1. Thus, claims 5, 8, and 10 are patentable under 35 U.S.C. § 103(a) for at least the same reasons discussed above with regard to claim 1.


Therefore, it is believed that claims 1-8 and 10 are in form for allowance and such indication is respectfully requested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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